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REMARKS

Claims 1-13 are pending. Independent claims 1, 10 and 11 have been amended to clarify the delivery of the advertising segments over the broadcast interactive television medium that is recited in the preamble of each claim. No narrowing amendments are intended by this clarification.

Section 103 Rejections

Claims 1, 4-8 and 10 stand rejected as being unpatentable over Bove in view of Portuesi. These rejections are respectfully traversed.

It is admitted in Para. 3 of the Office Action that "Bove does not disclose a plurality of selectable, predetermined video advertisement segments, presented as a continuation of the dynamic sequence of the spokesperson representation . . ." Portuesi is cited in the Office Action as purportedly disclosing this missing element. It is respectfully submitted, however, that there is no support in Portuesi for the missing element. Moreover, even if there were support for the missing element, the teachings of Portuesi are directed to presenting embedded uniform resource locators (URLs) for a web browser that are associated with media delivered over a computer network such as the Internet. There is nothing to teach or suggest that Portuesi would have any relevance to a broadcast interactive television medium that is the subject of the present invention.

In Para. 3 of the Office Action, the citation is made to Col. 1, lines 35-37 and Col. 3, lines 46-50 of Portuesi as teaching the missing element of the plurality of selectable, predetermined video advertisement segments. The cited sections in context are:

Uniform resource locators (URLs) are currently used to provide addressing of and access to resources on the public Internet and private intranets. These Internet/intranet URLs allow client systems of the network to request the documents or other resources from servers of the network by reference to the URL. The available resources generally include

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HTML Web pages as well as audio files and movie files that: can be downloaded to a user's machine [computer]. (Col. 1, lines 30-37)

A further technical advantage of the present invention is the ability to associate uniform network resource locators with various types of time-based media tracks, including image and audio tracks. In addition, transformations for hot spots can be specified for movement of hot spots within the playback display. (Col. 1, lines 46-50)

It is apparent from these citations that, other than a reference to movie files for download to a computer over the Internet, there is nothing about the citations in Portuesi that supports any kind of teaching of "a plurality of *selectable*, predetermined advertisement segments, *presented as a continuation of the dynamic sequence of the spokesperson representation.*" While Figure 4 of Portuesi shows an image of a person as part of a movie media display; it is abundantly clear from the description of the hot spot feature shown in Figure 4 that selection of a hot spot in Portuesi generates a display or link to a URL over the Internet using a browser interface on a computer, and not the presentation over a broadcast interactive television medium of one of "a plurality of *selectable*, predetermined advertisement segments, *presented as a continuation of the dynamic sequence of the spokesperson representation.*":

FIG. 4 is a diagram of one embodiment of highlighting a hot spot associated with an embedded URL during playback of movie file 8 of FIG. 2 according to the present invention. As shown, when a pointer 38 of a pointing device, such as a mouse, is positioned over a hot spot 40, hot spot 40 can be highlighted to indicate to the user that pointer 38 is positioned over hot spot 40. Also, caption 34 can display a URL 42 associated with hot spot 40. Thus, active embedded URLs in a video playback can be displayed as hot spots in addition to being displayed as hypertext links. In essence, the URL track can define an image map on top of a video display and provides active URLs to the user. (Col. 6, lines 33-44)

Even if Portuesi did teach the missing element, which it does not, there is no teaching or motivation to combine Portuesi with Bove. The Office Action states that it would have been obvious to a person of ordinary skill in the art to use the selectable zones in Bove's television broadcast to launch additional video because advertisers may think a video presentation is more

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persuasive than showing text data about the product. Launching additional video, however, would change the principle of operation of Bove and therefore such a combination cannot establish a *prima facie* case of obviousness. See MPEP § 2143.01.

Bove discloses "methods and systems for augmenting television broadcast material." (p. 1, ¶. 4). The real time television broadcast continues uninterrupted even when a user selects a zone to display information.

When a viewer begins to interact with the annotation system, the receiver 54 can set a flag that preserves the data required to carry out the interaction with the viewer for so long as the viewer continues the interaction, irrespective of the programmatic material that may be displayed on the video display, and irrespective of a time that the data would be discarded in the absence of the interaction by the viewer."(p. 5, ¶. 54) (emphasis added).

Bove is therefore designed to display information to the user without interrupting the initial video programming that the user is watching. The user can read the displayed textual information while still comprehending what is occurring in the television program. If video segments were substituted for the annotation text of Bove, however, this objective of Bove would not be met. Selection of a zone in accordance with the claimed invention launches a second video segment that would conflict with the initial video segment that continues on uninterrupted according to the teaching of Bove.

Accordingly, not only does Portuesi fail to support the admittedly missing element of Bove, there is no motivation to use additional video segments with Bove, and thus the Office Action fails to make out a *prima facie* case of obviousness. See *In re Ratti*, 270 F.2d 810, 813 (CCPA 1959) (Reversing a rejection because the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate.") As such, Applicant respectfully requests withdrawal of

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the rejection of independent claims 1 and 10 as being unpatentable over Bove in view of Portuesi.

With respect to specific features noted in the Office Action with respect to the claims 4-8 depending from claim 1, these claims are allowable because the underlying independent claim is allowable, although Applicant does not acquiesce in the position set forth in the Office Action. It is specifically noted that, for example, with respect to dependent claim 6 there is nothing in any of the references that teaches or suggests the required limitation of "a special effect of causing an object to appear as part of the spokesperson representation." The citation to Fig. 1C is inapposite as it is clear that the figure is indicating the highlighting of the sweater in this figure, and not the special effect of actually making the sweater appear on the spokesperson (note that the sweater is shown in Fig. 1B).

Dependent claim 2 stands rejected as being unpatentable over Bove in view of Portuesi and Wagner. Dependent claim 3 stands rejected as being unpatentable over Bove in view of Portuesi, Wagner, and Pawson. Dependent claim 9 stands rejected as being unpatentable over Bove in view of Portuesi and Klosterman. As noted above, Applicant believes claim 1 is now in condition for allowance. Because claims 2, 3, and 9 further define independent claim 1, these claims are allowable based on the allowability of the underlying independent claim. As such, Applicant respectfully requests withdrawal of these rejections.

With respect to dependent claim 2, it is respectfully submitted that while the citation to Wagner uses the word "seamless", the disclosure of Wagner does not teach or suggest the limitations of a seamless transition between two video segments as is recited in dependent claim 2. Wagner is concerned with how to create seamless interface using a set-top box between a conventional television and a GUI that can access interactive content via a browser-like

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interface. In this way, Wagner attempts to bridge the gap between conventional television and conventional Internet browsers to create a set-top box that can access interactive content.

The present invention is included in a "set-top" box which can be connected to a conventional television set and controlled by a hand-held remote control device. The set-top box provides a graphical user interface (GUI) by which a user can easily access both standard television programming and interactive content using the conventional television set as an audiovisual output device. As will be described below, the GUI includes features which provide relatively seamless transitions between viewing television and interactive content, and which enhance the overall viewing experience for the user.

With respect to dependent claim 3, it is respectfully submitted that the cited passages of Pawson does not support that argument set forth in the Office Action that Pawson teaches the limitations of how to accomplish a seamless transition by use of a common predetermined home position. Pawson is concerned with storing profiles of a user of a media on demand system so as to be able to selectively insert commercials into a downloaded movie or video that are deemed to be relevant to the particular user making the request based on the stored profile.

Alternately, the commercials shown in a digital video presentation can be stored in a different binary file as the requested content. Commercials in this case are statically mapped during presentation to the client. For example, a request by a client for a 30 minute episode of "M*A*S*H" might result in the media server streaming the first 10 minutes of the show, followed by a commercial, followed by the next 10 minutes of the show, followed by a commercial, followed by the final 10 minutes of the show. The entire presentation of "M*A*S*H" and the two commercials are delivered to the requesting client in one contiguous data stream. However, the selection of which commercials to intersperse with the requested data stream is done without thought to the identity of the requester. Thus, while the particular commercials inserted into the data stream for two different requests for "M*A*S*H" may differ, there is no guarantee that the commercials are appropriate for the demographics of the requesting audience. (Col. 1, lines 38-55) As a result of the techniques described herein, dynamic content is available for presentation to the viewer and, consequently, customized content, such as advertising, may be seamlessly inserted into, or content may be selectively removed from, a digital audio-visual data stream based on the profile of a particular requestor. (Col. 2, lines 13-17)

Independent claims 11 and dependent claims 12-13 stand rejected as being unpatentable over Bove in view of Portuesi and Szabo. These rejections are traversed for the reasons set forth above with respect to independent claims 1 and 10. Moreover, it is respectfully submitted that

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the recitation of Szabo does not support the admittedly missing element of basing compensation for a spokesperson based on statistics for the number of delivered selectable video advertisement segments. While Szabo does describe the art of compensation to websites based on advertiser click thrus, there is no teaching or suggestion of compensation for the spokesperson who is the subject of the interactive advertisements that are the subject of the present invention. The click thru advertising model applied to the present invention would compensate the cable television company that hosted and delivered the interactive advertisements, not the spokesperson who is featured on the advertisement. As such, Applicant respectfully requests withdrawal of the rejection of claims 11-13.

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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